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## **ARIZONA CORPORATION COMMISSION**

September 29, 2008

The Honorable Joseph T. Kelliher, Chairman  
Federal Energy Regulatory Commission  
888 1<sup>st</sup> St. NE  
Washington, DC 20426

Dear Chairman Kelliher:

We wanted to write to you regarding your testimony this summer before the U.S. Senate Committee on Energy and Natural Resources. You opined that the nature of the transmission grid has changed over time and that transmission line siting is increasingly becoming a regional, rather than state, issue. Furthermore, you reported that it has taken several years to site some interstate lines, suggesting that the states' line siting processes have not been timely or efficient. As the Arizona entity responsible for regulating public utilities and protecting the public interest in such matters, we have serious concerns regarding the perspective you provided.

The Arizona Corporation Commission (ACC) firmly believes that the state of Arizona is in the best position to determine the need for transmission line projects in or through our state and the impact of such projects on our residents and the regions' electrical transmission grid. We take this role seriously, as demonstrated by our comprehensive transmission planning process, our public, judicial and rigorous plant and line siting process and our proven track record for approving generation and transmission line projects. Any decision by FERC or another federal agency to intervene in these processes or to overturn an ACC decision made in a timely manner after a careful balancing of the facts is inappropriate. The construction of a reliable transmission grid does not require the usurpation of states' authority, but rather, a comprehensive transmission planning process and an efficient line siting process at the state level, both of which we have in Arizona.

### ***Transmission Planning***

The ACC employs a collaborative process for transmission planning. In 2000, the ACC initiated, pursuant to statute,<sup>1</sup> a Biennial Transmission Assessment (BTA) process that evaluates the adequacy of existing and planned transmission facilities in Arizona to reliably meet the present and future needs of Arizona customers. The BTA is prepared using Ten-Year studies, Reliability Must Run studies and other reports/documents filed with the ACC. Additionally, extensive regional planning studies have been conducted in Arizona and the Western U.S. by transmission planning and government agency groups, including: the Southwest Area Transmission Regional Planning Group, which is composed of Arizona, New Mexico and parts of Southern California, West Texas, Southern Nevada and Southern Colorado; WestConnect,

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<sup>1</sup> Arizona Revised Statutes, §40-360.02(G)



which is composed of utility companies providing electric transmission in the Southwestern U.S. and works collaboratively to assess stakeholder and market needs and to develop cost-effective enhancements to the western wholesale electricity market; and the Western Electricity Coordinating Council, which is responsible for coordinating and promoting electric system reliability in the nearly 1.8 million square miles it encompasses. Therefore, Arizona's transmission planning process draws upon both state and regional resources.

### ***Line Siting Process***

Arizona employs a rigorous line siting process that has been in place since 1971 when the Legislature enacted the Arizona Power Plant and Line Siting Committee Statutes, requiring the ACC to establish the Arizona Power Plant and Transmission Line Siting Committee (Committee).<sup>2</sup> The Committee, which is comprised of five ex-officio members who represent different state agencies and six members appointed by the ACC, evaluates applications to build power plants of 100 megawatts or more and transmission projects of 115,000 volts or more in the state. Arizona statutes require the Committee to hold a public hearing at which the applicant and any groups or individuals who are granted party, or intervenor, status testify and answer questions. The Committee members then vote on whether to grant the applicant a Certificate of Environmental Compatibility (CEC), which is a formal document that is necessary for the building of the power plant or transmission line. If granted, the CEC is forwarded to the ACC for approval. If denied, the applicant may request the ACC to rehear the matter. Per statute and administrative regulation, the entire process, from the time that an application is first filed with the Committee to the date the ACC approves or denies the project, including any requested review or reconsideration, must take no longer than 285 days; however, the clock may be stopped under certain circumstances, which could elongate the process.

In issuing a CEC, specific factors must be taken into consideration. These factors include, but are not limited to: a) existing plans for other developments at or in the vicinity of the proposed site; b) fish, wildlife and plant life and associated forms of life upon which they are dependent; c) noise emission levels and interference with communication signals; d) existing scenic areas, historic sites and structures or archaeological sites at or in the vicinity of the proposed site; and e) the estimated cost of the facilities and site. The Committee has broad discretion and can require a plant or transmission line to conform to certain conditions. Additionally, within the parameters of the law, the ACC can amend a CEC to include conditions it deems necessary to mitigate environmental impacts and enhance system reliability with overall consideration for the broad public interest. Such conditions, which often involve design, construction and operating particulars, ensure that the need for a project is fairly weighed against the project's impact.

### ***Recent Line Siting Activity***

The ACC has a history of pro-actively siting generation and transmission lines within Arizona—since the enactment of the relevant statutes, the ACC has decided 137 applications, only 4 of which have been denied. In fact, since 1999, the ACC has sited approximately 14,800

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<sup>2</sup> Although the core of the ACC's work is based on the powers and duties spelled out in the Arizona Constitution, plant and transmission line siting is an area of authority delegated to the ACC by the Arizona Legislature (Arizona Revised Statutes, Chapter 2, Article 6.2).

megawatts of generation and 739 miles of transmission lines. Further generation and transmission line projects are currently pending.

### ***Conclusion***

In summary, the state of Arizona is in the best position to balance the need for a proposed transmission line with the impacts the line may have on Arizona residents. We have in place a comprehensive transmission planning process and a timely line siting process that weighs the public interest heavily. History shows that Arizona's siting process has been effective and cannot be characterized as obstructionist or provincial. While there may very well be some unjustified NIMBY behavior in parts of the U.S., the ACC is not afflicted with such a policy infirmity and, on the whole, neither are our colleagues in other state commissions. The ability of the Arizona Committee and ACC members to fulfill their statutory obligations is not enhanced by FERC's ability to overrule its denials of a line siting. On the contrary, the members are likely at a disadvantage in carrying out their responsibilities due to the added measure of uncertainty in the finality of their recommendations. Additionally, conditional approval often part of decisions may now be subject to renegotiation at FERC without the full benefit of the process used to arrive at those conditions.

We are aware there may be circumstances in which an applicant did not have access to a reasonable process. We certainly take no issue with a process to review such claims of an applicant with an attendant possibility of some form of federal action to address a legitimate and vetted claim of an unreasonable state-level process or, worse, no process at all. That said, we are all sensitive and aware of the tendency of government to move beyond such a narrow role. We remain concerned that what may have been intended to be a "backstop" role, will ultimately and effectively become primary, or de facto primary, authority.

Thank you for your attention to our concerns. We urge you to take them into consideration as FERC continues to implement its new line siting authority.

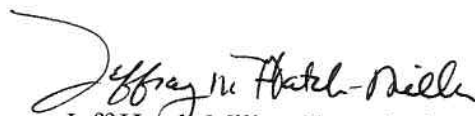
Sincerely,



Mike Gleason, Chairman



William A. Mundell, Commissioner



Jeff Hatch-Miller, Commissioner



Kristin K. Mayes, Commissioner



Gary Pierce, Commissioner